

distinctness and the Office Action is incorporated herein in its entirety to enable the completeness of this response.

Since an applicant is permitted dependent claims which further define the claimed subject matter, varying in breadth or scope of definition and the claims define many of the same essential characteristics of the inventive concept, Applicants assert that restriction of the currently pending claims should not be required (see, MPEP § 806.03).

Moreover, MPEP § 803 clearly states there are two criteria that must be met for a proper requirement for restriction between patentably distinct inventions: (A) the inventions must be independent (see MPEP § 802.01, § 806.04, § 808.01) or distinct as claimed (see MPEP § 806.05 - § 806.05(i)); and (B) there must be a serious burden on the Examiner if restriction is required (see MPEP § 803.02, § 806.04(a) - § 806.04(i), § 808.01(a), and § 808.02)[emphasis added]. If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

Since the Examiner has provided no reasoning for the difficulty of the search, Applicant does not understand how a search of the prior art with respect to this common inventive concept cannot be easily conducted or how it represents any serious burden on the Examiner. Accordingly, Applicants assert that the Examiner has failed to meet both criteria set out in MPEP § 803 for proper restriction and that all the currently pending claims should, therefore, be searched and examined in the instant application.

In summary, Applicants assert that the Examiner has not *prima facie* established that the currently pending claims meet the criteria as set forth in MPEP § 803 for proper requirement for restriction.

Solely in order to expedite prosecution of the instant application, however, Applicants have elected alleged Invention II.

CONCLUSION

In view of the foregoing, Applicants respectfully request the Examiner to reconsider and withdraw the restriction requirement, and to examine all of the claims pending in this application.

If the Examiner has any questions or wishes to discuss this matter, the Examiner is welcomed to telephone the undersigned attorney.

Respectfully submitted,

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